

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

934A0535

SENATE BILL NO. 115

Introduced by: Senators Whiting, Benson, Halverson, Lawler, and Munson (David) and
Representatives Belatti, Duniphan, Kooistra, Lee, Peterson (Bill), and Wetz

1 FOR AN ACT ENTITLED, An Act to limit the recovery of certain damages in cases involving
2 the commission of felonies or certain traffic offenses.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. In any action for damages based on negligence, no person may recover any
5 damages if the plaintiff's injuries were in any way proximately caused by the plaintiff's
6 commission of any felony, or immediate flight therefrom and if the plaintiff has been duly
7 convicted of that felony.

8 Section 2. Except as provided in section 3 of this Act, in any action to recover damages
9 arising out of the operation or use of a motor vehicle, no person may recover noneconomic
10 losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement, or
11 any other nonpecuniary damages if any of the following apply:

12 (1) The injured person was, at the time of the accident, operating the vehicle in violation
13 of § 32-23-1 and was convicted of that offense; or

14 (2) The injured person was the owner of a vehicle involved in the accident and the vehicle
15 was not insured as required by the financial responsibility laws of this State; or

1 (3) The injured person was the operator of a vehicle involved in the accident and the
2 operator cannot establish financial responsibility as required by the financial
3 responsibility laws of this State.

4 Except as provided in section 3 of this Act, no insurer is liable, directly or indirectly, under
5 any policy of liability or uninsured motorist insurance to indemnify for noneconomic losses of
6 a person who has been injured as described in this section.

7 Section 3. If a person described in subdivision (2) of section 2 of this Act was injured by a
8 motorist who at the time of the accident was operating a vehicle in violation of § 32-23-1 and
9 was convicted of that offense, the injured person is not barred from recovering noneconomic
10 losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement, and
11 other nonpecuniary damages.